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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,270	11/23/2001	Kazuo Horikawa	VX012386	2409
21369	7590	06/02/2006	EXAMINER	
POSZ LAW GROUP, PLC 12040 SOUTH LAKES DR. SUITE 101 RESTON, VA 20191				JOYCE, WILLIAM C
			ART UNIT	PAPER NUMBER
				3682

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/990,270	HORIKAWA, KAZUO	
	<b>Examiner</b>	<b>Art Unit</b>	
	William C. Joyce	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 March 2006.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-11 is/are rejected.
- 7) Claim(s) 6-8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                         |                                                                             |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                         | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This Office Action is in response to the amendment filed March 7, 2006 identified patent application.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by

Japanese Reference 4-97950 (JP '950).

JP '950 discloses a lock lever device for a working implement drive control system of a construction machine vehicle, the construction machine vehicle comprising a driver's seat (11) and a passageway for an operator of the vehicle arranged between the driver's seat and an exit from the construction machine vehicle, and the lock lever device comprising a locking lever (24) being located adjacent to the passageway to the driver's seat, a control selector lever (25) switching the working implement drive control system between controllable and uncontrollable states by operating the locking lever,

and a linkage that links the locking lever and the control selector lever together, the locking lever blocking operator passage through the passageway when switched to the controllable state and permitting operator passage through the passageway when switched to the uncontrollable state, the locking lever providing a rocking stroke for operating the locking lever along an arched path between a first endpoint and a second endpoint and through a midway position located between the first and second endpoints, the linkage placing the control selector lever in the controllable state at the first endpoint and from the first endpoint to the midway position of the arched path of the locking lever, the control selector lever is in the uncontrollable state in the midway position and from the midway position to the second endpoint of the arched path of the locking lever.

***Allowable Subject Matter***

4. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed March 7, 2006 have been fully considered but they are not persuasive.

The argument that JP '950 does not contemplate or suggest a linkage between the locking lever and the control selector lever for placing the control selector lever in

the controllable state at the first endpoint and from the first end point to the midway position of the arched path of the locking lever; and the linkage idles the control selector lever from the midway position to the second end point of the arched path of the locking lever as required by claim 9. Referring to JP '950, it is understood the lock lever (24) is connected to a control lever (25) by way of a lost motion linkage, the lost motion linkage is a pin and slot connection, wherein movement of the lock lever between an end point to a midway position allows the control lever to remain in an idle position (off position) and movement of the lock lever from the midway position to a second end point actuates the control lever to an engaged position (on position). A lever is defined as a "projecting piece by which a mechanism is operated or adjusted." Webster's Third New International Dictionary, Vol. 11 1300 (1986). Accordingly, the claims remain rejected as described above.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3682

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (571) 272-7107. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
William C. Joyce 5/30/06